



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in Rajya Sabha on the 26th July, 2019:—

I

BILL No. XLVII OF 2019

A Bill to raise awareness about and provide facilities for mental well-being to adolescents through schools and coaching centres and for matter connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Adolescent Mental Health Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) “adolescent” means a child aged between 12 and 18 enrolled in schools or coaching centres;

Short title,
extent and
commence-
ment.

Definitions.

(c) “coaching centre” means an institution imparting coaching to students for any subject taught at school level or for admission into any professional course, with a student strength of more than 50;

(d) “guidelines” means Adolescent Mental Health Guidelines’, framed under section 3 of the Act;

(e) “practitioner” means a registered medical practitioner of mental health practices who has training in psychiatry or clinical psychology and such other qualifications as may be prescribed by the rules made under this Act;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “school” means a school run by the Central Government or a State Government or a recognised private school;

(h) “session” means an interactive training which may be of the forms such as physical, theoretical, or any sports, aimed at improving mental health or creating awareness among students and parents;

Central Government to grant Adolescent Mental Health Guidelines.

3. (1) The Central Government shall within one year of the commencement of the Act frame ‘Guidelines’ lay down steps to be followed by schools and coaching centres to ensure mental well-being of students.

(2) The guidelines shall categorize schools and coaching centres based on the number of students, the annual revenues, geographical considerations and ownership, public or private and shall contain specific provisions for each category.

Appropriate Government to implement the Guidelines.

4. (1) The appropriate Government shall ensure that every school and coaching centre within its jurisdiction is fully prepared to follow the Guidelines.

(2) The appropriate Government shall take steps to ensure that no school charges any additional amount from the parents of students for arranging sessions on mental health.

Duty to provide mental health facilities in schools and coaching centres.

5. (1) The appropriate Government shall ensure that every school,—

(i) invite practitioners to conduct sessions on mental health and well-being for students and parents as specified in the guidelines;

(ii) provide adequate space in school premises for the practitioners to conduct sessions on mental health awareness through interactive activities.

(2) The appropriate Government shall also ensure that every school and coaching centre hire a practitioner or affiliate itself with a nearby practitioner for fulfilling the mental health needs of students, as per the guidelines;

Provided that schools and coaching centres shall not charge any additional fee from the parents of students for the arrangement of the practitioner under sub-rule (1) and (2).

Duty of the students and parents.

6. The appropriate Government shall take steps to ensure that:—

(i) every student mandatorily attend all sessions, as may be prescribed; and

(ii) every parents participates in maximum, but at least the minimum number of sessions as may be prescribed.

Central Government to provide requisite funds.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to the appropriate Government for carrying out the purposes of this Act.

Act to have overriding effect.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

With about 400 suicides every day and very sixth person in need of some mental health treatment as per National Mental Health Statistics, India fares poorly in mental health. The statistics for the youth of the country are the grimmest. Every other week, there are numerous cases of students from colleges, and many of them while just in schools and coaching institutions having succumbed to ill mental health. While a suicide is an unfortunate final step of mental illness, there must be government action to prevent any student being a patient of mental, illness which leads them to take such steps of Independent studies have seen as high as 53% of school going students suffering from either moderate or severe form of depression, which some indicating that about 4 out of 10 students feel regular or occasional depression or tension.

Today, the need to address issues regarding mental well-being is more important then ever. The World Bank recognizes mental health as a key challenge to sustainable development. Even the Government has recognized the need for open discussion on depression and other mental health issues.

While a dialogue at the centres of leading government and international institutions is a welcome step, there are two key aspects untouched by policy. Firstly, there is a clear need to raise awareness and remove social stigma regarding mental health issues among student, teachers and parents. Secondly, provision of easy-to-access facilities to students in schools and coaching centres has consistently been ignored, and should be ensured by the appropriate Government. This Bill has been proposed to address the above-mentioned issues

Hence, this Bill.

RITABRATA BANERJEE

FINANCIAL MEMORANDUM

It is estimated that a recurring expenditure of about rupees one hundred crore would involve per annum from the Consolidated Fund of India.

Clause 7 provides that the Central Government shall provide adequate funds to the appropriate Governments for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve expenditure from the consolidated fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

As the rules will relate to matters of detail, the delegation of legislative power is of a normal character.

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

II

BILL NO. L OF 2018

A Bill to provide for the constitution of a National Commission for social security benefits to undertake regular review of core social security benefits provided by the Government to the Citizens and for matter concept therewith or incidental thereto.

BE it enacted by Parialment in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short Title,
Extent and
Commencement.

1. (1) This Act may be called The National Commission for Social Security Benefits Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) “Chairperson” means the Chairperson of the National Commission for Social Security Benefits;

(b) “Commission” means the National Commission for Social Security Benefits constituted under Section 3;

(c) “comprehensive report” means a report submitted by Sub-Commission after every five years with audit findings and proposed recommendations, regarding the social security benefit under Section 6;

(d) “member” means a Member of the Commission or Sub-Commission thereof; and

(e) “prescribed” means prescribed by rules made under this Act.

(f) “social security benefits” means schemes, policies and Acts of the Government of India for socio-economic upliftment of its citizens as specified in the Schedule;

(g) “Sub-Commission” means the Sub-Commission for a specific Central Government scheme, policy or Act, constituted under section 6;

CHAPTER II

NATIONAL COMMISSION FOR SOCIAL SECURITY BENEFITS

3. (1) **The Central Government shall by notification in the Official Gazette constitute a Commission to be known as the National Commission for Social Security Benefits to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.**

Constitution of the National Commission for Social Security Benefits.

(2) **The Commission shall consist of—**

(a) **a Chairperson, nominated by the Central Government from amongst persons of ability, integrity and standing who has at least fifteen years of professional work experience committed to the cause of promoting socio-economic development across communities;**

(b) **five members to be nominated by the Central Government from amongst persons of ability, integrity and standing who have professional experience in promoting socio-economic development across communities, with at least one member each from amongst persons belonging to the Scheduled Castes and Scheduled Tribes, respectively;**

4. (1) The Chairperson and every member shall hold office for the term, not exceeding five years, as may be prescribed by the Central Government in this behalf.

Term of office and conditions of service of Chairperson and members.

(2) The Central Government shall remove a person from the office of Chairperson or a member referred to in sub-section (2) of Section 3 if that person—

(a) is found to be of unsound mind by a court of competent jurisdiction;

(b) becomes an undischarged insolvent;

(c) is convicted and sentenced to imprisonment by a court of competent jurisdiction for an offence which in the opinion of the Central Government involves moral turpitude.

(d) is found not to possess the requisite qualifications and experience, as may be prescribed in this behalf;

(e) refuses to act or becomes incapable of acting;

(f) is, without taking leave from the Commission, absent from three consecutive meetings of the Commission; and

(g) in the opinion of the Central Government has so abused the position of Chairperson or member so as to render his continuance detrimental to public interest:

Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.

(3) A vacancy caused under sub-section (2), shall be filled within one month from the date of occurrence of the vacancy.

(4) If a casual vacancy occurs in the office of the Chairperson or any member, whether by reason of his death, resignation or removal, such vacancy shall be filled up by the Central Government by making a fresh appointment and the member so appointed shall hold office for the remainder of the term.

(5) The salaries and allowances payable to, and other terms and conditions of service of the Chairperson and functioning shall be such as may be prescribed.

Officers and
employees of
the
Commission.

5. (1) The Central Government shall provide suitable officers and employees to the Commission for its efficient functioning under this Act.

(2) The salaries and allowances payable to, and other terms and conditions of service of officers and employees shall be such as may be prescribed.

Power to
constitute Sub-
Commissions
of the
Commission.

6. (1) The Commission shall appoint Sub-Commissions for each social security benefit, as specified in the Schedule to this Act;

(2) Each Sub-Commission shall consist of :

(a) a Sub-Commission Head, with experience in the field of the particular social security benefit the Sub-commission has been constituted for, to be nominated by the Commission.

(b) three members from amongst persons of ability, integrity and standing who have professional experience in working with the particular Social Security benefit with at least one member each from amongst persons belonging to the Scheduled Castes and Scheduled Tribes, respectively to be nominated by the Commission;

(3) The Commission shall have powers to remove a member from a Sub-Commission on any grounds as specified in Sub-Section (2) of Section 4.

(4) The allowances payable to members appointed to the Sub-Commissions shall be decided by the Commission.

CHAPTER III

FUNCTIONS OF THE COMMISSION AND SUB-COMMISSIONS

Functions of
the
Commission
and Sub-
Commissions.

7. (1) The Sub-Commissions for each social security benefit, shall audit the respective schemes, policy or Act, as the case may be, and recommend changes with respect to remunerations, eligibility, outreach, exclusions, scale by performing the following functions, namely—

(a) undertaking research studies and evaluating effectiveness for procedural improvements;

(b) making policy suggestions to the Central Government to ensure that interests of the beneficiaries are taken care of;

(c) undertaking consultations with civil society organisations, government officials and intended beneficiaries in their research;

(d) undertaking non-partisan research or call for special studies and investigations into reasons for and problems arising out of, exclusion from social security schemes;

(e) making recommendations to Central Government for effective implementation of policies and schemes; and

(f) such other functions as may be assigned by the Commission.

(2) Each Sub-Commission shall submit a comprehensive report after every five years to the Central Government, laying down audit findings and proposed recommendations.

(3) The Commission shall monitor the functioning of the Sub-Commissions through:

(a) setting up and dissolving Sub-Commission;

(b) ensuring non-partisan character of Sub-Commissions;

(c) seeking and disbursing funds for Sub-Commissions from the Central Government.

8. (1) The Commission shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit.

Meetings of the Commissions and Sub-Commission.

(2) The Sub-Commission shall meet as and when necessary and at least biannually with no more than eight months elapsing between two meetings.

(3) The Commission shall regulate its own procedure and the procedure of the Sub-Commissions.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

9. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf provide to the Commission by way of grants such sums of money as the Central Government may think fit for being utilized for the purpose of this Act.

Grants by Central Government.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, including further transfers to Sub-Commissions, and such sums shall be treated as expenditure payable out of grants under sub-section (1).

10. The Central Government shall cause the reports by the Sub-Commissions to be laid, as soon as may be, after the reports are received, before each House of Parliament.

Comprehensive reports to be laid before Parliament.

CHAPTER V

MISCELLANEOUS

11. The Chairperson, the Members, Officers and the other employees of the Commission, including those of the sub-Commissions, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Chairperson, members and staff of the Commission and Sub-Commissions to be public servants.

12. The Central Government shall consult the Commission or the Sub-Commissions on all major policy matters affecting particular social security schemes.

Central Government to consult the Commission and Sub-Commissions.

13. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

(a) additional eligibility criteria for appointment as the Chairperson or member of the Commission or the Sub-Commission;

(b) salaries and terms and conditions of service of Chairperson and members of the Commission and the Sub-Commissions;

(c) additional ground for removal of the Chairperson or members from the Commission or Sub-Commissions.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive session and if before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

SCHEDULE

(See Section 2 and Section 6)

- (1) National Social Assistance Program
- (2) National food Security Act
- (3) Mahatma Gandhi National Rural Employment Guarantee Program
- (4) Pradhan Mantri Krishi Sinchai Yojana
- (5) National Health Mission
- (6) National Education Mission
- (7) Pradhan Mantri Jan Aarogya Yojana

STATEMENT OF OBJECTS AND REASONS

India has been one of the fastest growing large economies of the world, experiencing double digit growth rates and development across various sections of the society. Almost every scholar would agree with how some benefits of India's spectacular growth have reached the poorest, the extent of which has been questionable, through a large number of Central Government policies and schemes targeted towards the socio-economically deprived.

National Social Assistance Program (NSAP), Public Distribution Systems (PDS), National Rural Employment Guarantee Act (NREGA), Integrated Child Development Services (ICDS), National Rural Health Mission (NRHM) are few of the developmental policies by the Central Government. These have provided benefits such as pensions, employment, food grains, education and healthcare to the most underprivileged communities such as the poor, unemployed rural population or the disabled or the old, or children and the medically ill, moving them above on ladders of socio-economic well-being.

While crucial and highly valued by the beneficiaries, many characteristics of the schemes have been repeatedly said to be inadequate by scholars and common people. Central Government's contributions as pensions under NSAP have remained constant for over a decade now to Rs. 200 per month; 35 kgs. of rice/wheat per family under the National Food Security Act has been found to be inadequate for large families. Ananganwadi and ASHA workers have been organising themselves for strikes and demonstrations to demand payments of Rs. 18,000, whereas the government has agreed to increase it to only Rs. 4,500; and so on. There is clearly, a gap between various metrics of operation of these schemes: eligibility, outreach exclusions, scale, in terms of what the stakeholders should be entitled to and what they actually receive.

This Bill attempts to set up a Commission which shall conduct various audits of individual benefits through its Sub-Commissions, and give recommendations, every five years, for suitable alignment of the policies in order to cater to the intended beneficiaries and other stakeholders effectively.

Hence this Bill.

RITABRATA BANERJEE

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to constitute a National Commission for Social Security Benefits, which will further appoint Sub-Commissions in accordance with Clause 6. Clause 9 provides that the Central Government shall provide grants to the Commission. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundred crore per annum from the Consolidated Fund of India would be involved. A non-recurring expenditure of about rupees two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of normal character.

III

BILL NO. XLIX OF 2018

A Bill to provide for reservation of posts in Government Establishments and formulation of welfare schemes and programmes for orphans and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Orphans (Reservation of Posts in Government Establishments and Welfare) Act, 2018

(2) It shall apply to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appointing authority", means the authority empowered in an establishment to make appointment to service of post;

(b) "appropriate Government's means,—

(i) in relation to the Central Government or any established wholly or substantially financed by that Government, the Central Government;

(ii) in relation to a State Government or any establishment, wholly or substantially financed by that Government, or any local authority, the State Government;

(c) "establishment" means every body or authority founded, owned, controlled, managed or financed by the appropriate Government and includes the following,—

(i) any body or authority established by or under a Central Act or a State Act or an authority or a body owned or controlled or aided by the Government or a local authority, or a Government company as defined in section 2 of the Companies Act, 2013, and includes a Department of the Government; or

(ii) any company or body corporate of association or body of individuals, firm, cooperative or other society, association, trust, agency or institution.

(d) "Group 'A' post" means a post which is classified as such by the President in exercise of the powers conferred by the proviso to article 309 of the Constitution or by or under any Act of Parliament and includes an equivalent post in any establishment;

(e) "orphan" means an individual who has lost both parents through death or disappearance, abandonment or desertation by, or separation;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "scientific or technical post" includes, post for which qualification in natural sciences or exact sciences or applied sciences or technology are essential and the incumbent of such post shall have to use his or her knowledge in such sciences for discharge of duties.

CHAPTER II

RULES AND REGULATIONS FOR RESERVATIONS

3. (1) The appropriate Government shall reserve such percentage of posts for the orphans for appointment in civil services by direct recruitment and promotion, in such manner, as may be prescribed.

Reservation of posts for orphans appointment in civil services.

(2) The vacancy reserved for orphans under sub-section (1) shall be filled in such manner as may be prescribed.

4. (1) Notwithstanding anything contained in section 3, there shall be no reservation where appointments are made—

No reservations in certain cases.

(i) for a period of less than forty-five days;

(ii) for work charged post required for any emergency relief work; and

(iii) to posts higher than the lowest grade of Group 'A' posts and to posts classified as scientific or technical posts;

(2) The Central Government may, by notification in the Official Gazette, include or omit any institution of national importance and Indian Institutes of Management from the purview

of this Act and on the publication of the notification, such institution shall be deemed to be included in or as the case may be, omitted under this Act.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

Appointment to unreserved vacancy.

5. Notwithstanding the provision of section 3, appointment to an unreserved vacancy shall be open to all eligible persons including a person belonging to the orphan category.

Relaxations of age.

6. (1) The maximum age limit fixed for direct recruitment to a service or post shall be increased by five years for the orphans.

(2) The maximum age limit fixed for promotion to a post, if any, shall be increased by five years for the orphans.

Provided that no relaxation shall be available where the maximum age limit for promotion has been fixed above fifty years.

Fees concession.

7. The examination fee or application fee, determined for recruitment to a service or post through competitive examination or otherwise, may be reduced to such extent for the orphans, as may be prescribed.

Reserved vacancies to be filled by orphans only.

8. The vacancies reserved for the orphans shall be filled by the orphans only.

Abolition of posts in an establishment.

9. Where posts in an establishment are to be abolished and as a result thereof, the services of certain persons are required to be either surrendered or terminated, no such surrender or termination shall be made in respect of the orphans, if it results in lowering their representation in relation to the percentage of reservation fixed for them.

CHAPTER III

MEASURES BY GOVERNMENT

Measures to be taken by appropriate Government.

10. The appropriate Government shall take steps to secure full and effective participation of orphans and their inclusion in society which may include.

(i) taking such measures as may be necessary to protect the rights and interests of orphans, and facilitate their access to reservations as framed by that Government by issuing orphan certificate in such manner as may be prescribed.

(ii) formulation of welfare schemes and programmes which are sensitive and non-discriminatory towards orphans.

(iii) taking steps for the rescue, protection and rehabilitation of orphans to address the needs of such persons; and

(iv) developing and organizing training programmes to advance the competence of the orphans for appointment to services and posts.

CHAPTER IV

OBLIGATION OF ESTABLISHMENTS AND OTHER PERSONS

Appointment of a Liaison officer.

11. (i) Every establishment shall designate an officer of such rank, as may be prescribed, to function as a liaison officer for the purpose of ensuring that the provisions of this Act or the rules made thereunder are not contravened.

(2) The liaison officer shall, from time to time, inspect and verify the documents, records and reports with respect to appointments of the orphans made by the appointing authority by direct recruitment or promotion.

(3) Where the liaison officer is satisfied that any establishment has contravened the provisions of this Act or the rules made thereunder or any direction or instruction issued, he shall submit a report of such contravention to the head of the establishment.

(4) On receipt of the report of contravention under sub-section (3), the head of establishment shall take such disciplinary action against the person responsible for such contravention as may be prescribed.

12. Every appointing authority, shall maintain documents and records, and furnish every year a report on the appointments of the orphans made by direct recruitment and promotion to the appropriate Government in such manner and at such time, as may be prescribed.

Maintenance of records by appointing authority.

CHAPTER V

OFFENCES AND PENALTIES

13. (i) Whoever intentionally,—(i) makes a false claim that he is an orphan; or
(ii) issues a false orphans certificate shall be liable for punishment for a term, which may extend to three years; and

Penalties for false claim.

14. Where any person responsible for implementing the provisions of this Act or the rules made thereunder, intentionally breaches any of such provisions, he shall be liable for disciplinary action under the service rules.

CHAPTER VI

MISCELLANEOUS

15. The provisions of this Act shall be in addition to, and not derogation of, any other law for the time being in force.

Act to have overriding effect.

16. No suit, prosecution or other legal proceeding shall lie against the appropriate Government or any local authority or any officer of the Government in respect of anything which is in good faith done or intended to be done in pursuance of the provisions of this Act and any rules made thereunder.

Protection against legal proceedings.

17. (1) The appropriate Government may, by notification, make rules for carrying out the provisions of this Act.

Power to move rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the percentage of posts for reservation and the manner of reservation under sub-section (1) of section 3;

(b) the manner of filling vacancies under sub-section (2) of section 3;

(c) the extent of reduction in examination fee and application fee under section 7;

(d) the rank of the officer to be designated as the liaison officer under sub-section (1) of section 11.;

(e) the documents and records to be maintained and the time and manner of furnishing report under sub-section (1) of section 12;

(f) any other matter which is required to be or may be prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such

modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State legislature.

STATEMENT OF OBJECTS AND REASONS

As of 2017, India did not have an official figure on the number of orphans in this country. The latest number is estimated around 20 million, based on a study carried out by the SOS Children's Village Faridabad based NGO by analyzing data from the National Family Health Survey-3, in 2011. This vacuum is itself a testament to the treatment orphans face.

Though orphans have an identity while staying at orphanages, once they turn 18, society renders them useless. Without government identification, birth certificates, or residential proofs, it is almost impossible for them to access higher opportunities for education or employment. Therefore, it is important for the Government to recognize orphans as socially and economically deprived groups and provide them with reservations. Additionally, given that India has the world's largest youth population it is imperative that the Government, through Job reservation, brings orphans one steps close towards empowerment and the youth of our country towards a brighter future.

NARESH GUJRAL

FINANCIAL MEMORANDUM

Clause 10 of the Bill, *inter alia*, provides for formulation of welfare schemes and programmes for the orphans, rehabilitation of orphans and developing and organizing training programmes to advance the competence of the orphans for appointment to services and posts.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is not possible at this stage as to the exact amount which is likely to be incurred towards recurring and non-recurring expenditure for the purpose.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the appropriate Government to make rules for carrying out the provisions of the Bill.

The matters in respect of which rules may be made under the aforesaid provisions are matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

IV

BILL NO. XXIV OF 2019

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2019.

Short title, and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Constitution, for article 282, the following shall be substituted namely;

Substitution
of new article
for article
282.

"282. The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws:

Expenditure
defrayable by
the Union or
a State out of
its revenues.

"Provided that the Union Government or a State Government, shall not announce or introduce any new scheme or programme to incur any expenditure under the provisions of this article, if the general election to the House of the People or election to the Legislative Assembly of a State, as the case may be, is due within a period of six months."

"Provided further that in case of a scheme or programme already commenced by the Union Government or a State Government under the provisions of this article but the initial transfer of benefits to the eligible beneficiaries under that scheme or programme has not commenced prior to six months of the general election to the House of the People or an election to the Legislative Assembly of a State, the transfer of such benefits shall not be commenced till the completion of the process of such elections."

STATEMENT OF OBJECTS AND REASONS

Nowadays, the political parties and persons contesting various elections promise and boast of distribution of freebies to electors as a short route to please them and seek electoral mandate in their favour. There is a tendency of choosing this freebie distribution just before general elections from government treasuries under various popular schemes and programmes for public purpose under article 282 of Constitution. The reality cannot be ruled out that distribution of freebies of any kind, undoubtedly, influences all people. It shakes the root of free and fair elections to a large degree and vitiates the electoral process. These freebies are gifts that have no other purpose than to induce voters to vote for a particular party or person. The attempt of each party to outdo the other has taken a vicious form of competitive populism. If not curtailed, this will ruin the State financially.

Article 282 was incorporated in the Constitution with a noble aim to give power to Union and States to spend public money for public purpose in the emergent contingencies and special situations. This article is source of spending funds for the public purpose and is normally meant for special, temporary or adhoc schemes apart from normal government spending enshrined under article 275. But spending under the provision of this article shall be subject to other constitutional requirements. Freebie distribution by parties should be considered as a corrupt practice as defined under section 123 of Representation of People's Act, 1951.

It is necessary to prevent misuse of this article just before the general elections. Announcement of a new scheme or program before general election within six months and commencing distribution of freebies under already announced schemes before six months when general elections are due, needs to be curtailed to ensure a level playing field to all contestants of election and to promote free and fair election.

This Bill seeks to further amend the Constitution to put a check on distribution of freebies under the garb of provisions of article 282 just before general elections by the Union and the State from the Government treasures.

K.V.P. RAMACHANDRA RAO

V

BILL NO. XXV OF 2019

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Representation of the People Act, 1951, (hereinafter referred to as the principal Act) after section 29C, the following sub-section shall be inserted, namely:— 43 of 1951.

Publishing of
manifesto.

"29D. (1) Every political party registered under section 29A and contesting election at the State or national level, shall publish a paper or a list or a manifesto, detailing the public policies that it shall adopt in the administration, or promises or assurances that it shall fulfill in the event of winning such elections, at least six months before elections are due.

(2) Each promise, assurance and policy so published by a political party under sub-section (1) shall be treated as a promise made with public by the political party for that election.

(3) Failure to fulfill the promises or assurances or failure to implement the policies declared under sub-section (1) before the end of the term of the political party in Government shall be treated as cheating and shall be subject to trial under the Indian Penal Code, 1860."

45 of 1860.

3. In the principal Act, in section 123, after sub-section (8), the following sub-sections shall be inserted namely:—

"9" Publication of a paper or a list or a manifesto by a political party or a candidate contesting an election or their agent or any person with their consent, containing policies, promises and assurances that appear fiscally imprudent and are made without any reasonable basis or convincing reasons which does not withstand the scrutiny by the appropriate authority and *prima facie* appear to have been made only to obtain undue gain in the electoral process by attracting the voters.

Amendment
of section
123.

Bribery is already a "corrupt practice" under S/123 (1) of principal Act.

(10) Transfer of individual benefits, including monetary transfers under Direct Benefit Transfer scheme announced by the appropriate government, to a voter or his family members, if arising out of or consequent to a scheme or program commenced by the appropriate Government within six months from general election to the House of People or election to a State Legislative Assembly, as the case may be."

STATEMENT OF OBJECTS AND REASONS

Every political party wants to get elected and govern. But unfortunately, unable to please the people with a constant to-do list of waging a war on poverty, tackling the issue of rising inequality, spurring the farmer income's, boosting the job creation, catalysing investment growth, plugging infrastructure deficits, and solving the energy crisis etc., they choose to offer them unrealistic manifestos apart from distribution of individual benefits and distribution of freebies to the voters.

There is a general tendency among political parties to attract the electors with individual benefits and making unrealistic promises in their manifestos. People also get attracted to these individual benefits and start believing in such unrealistic policies and show interest in voting them to power. Almost all the regional and national political parties are competing with each other to announce schemes attractive to the people and detrimental to the interest of the nation. Some political parties, inspite of having some interest in the country's future and aversion towards such schemes, are somehow compelled to fall on the same line to impress people and win the public mandate.

The system of announcing or promising freebies, consumer goods benefitting the individual and families and making unrealistic promises to people in a Manifesto without any and promising fiscally imprudent policies should be discontinued. Otherwise, country will face an economic turmoil in future.

Though all the political parties declare their election manifestos, it was not made mandatory under law. Publication of a manifesto much before elections containing the policies and promises and treating the failure in implementation of those promises by the party in government after winning the election as cheating, shall be one of the options to ensure accountability in political parties.

Therefore, the Bill seeks to amend the Representation of the People Act, 1951 to the extent to make it mandatory to publish a manifesto much before elections with only implementable policies and also to declare freebies and consumer goods distribution and making unrealistic promises and assurances in the manifesto without a valid basis, a corrupt practice. Further the Bill also seeks to amend the Act to curtail individual benefits under Direct Benefit Transfer Scheme of the Government before 180 days of general elections or elections to State Assembly by declaring it as one of the corrupt practices.

DR. K.V.P. RAMACHANDRARAO

VI

BILL NO. XXIII OF 2019

A Bill to provide for the establishment of a National Commission for Welfare of Farmers to improve the conditions of farmers and for matters connected therewith.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the National Commission for Welfare of Farmers Act, 2019. Short title and commencement.

(2) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,— Definitions.

(a) "agricultural produce" includes wheat, paddy, pulses, sugarcane, cotton, oil seeds, coarse grains like maize, millet, jawar, bajra, gram and such other agricultural or horticultural produce which are used for human consumption or for any medicinal purposes.

(b) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(c) "Commission" means the National Commission for Welfare of Farmers established under section 3;

(d) "farmer" means an Indian citizen who undertakes cultivation for sustenance in his own land or in any other land on sharing basis or on lease or performs any other livelihood work related to agriculture; and

(e) "prescribed" means prescribed by rules made under this Act.

Establishment
of a National
Commission
for Welfare of
Farmers.

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Commission to be known as the National Commission for Welfare of Farmers to improve the conditions of farmers in the country.

(2) The Commission shall consist of—

(a) a Chairperson;

(b) a Deputy Chairperson; and

(c) three members.

to be appointed by the President by warrant under his signature and seal from amongst the persons having special knowledge in the field of agriculture.

(3) The Central Government may appoint such number of officers and staff including experts in the Commission, as may be required for its efficient functioning.

(4) The salary and allowances payable to, and other terms and conditions of service of the Chairperson, Deputy Chairperson, members, officers, staff and experts of the Commission shall be such as may be prescribed.

(5) The Commission shall have the power to regulate its own procedure.

Functions of
the
Commission.

4. (1) It shall be the duty of the Commission to take such steps, as it may deem appropriate, for the welfare and development of farmers and their dependant family members.

(2) Without prejudice to the generality of the foregoing provision, the Commission shall ensure the following provisions for the benefit and welfare of farmers, namely:—

(a) recommend to the Central Government, the minimum support prices of each agricultural produce;

(b) negotiate all cases related to the safeguards provided to farmers and carry out the monitoring and improvement of such safeguards;

(c) investigate complaints of the farmers related to deprivation of their rights and safeguards;

(d) participate in the planning process of socio-economic development of farmers;

(e) advice the appropriate Government to enhance pace of development of farmers under its jurisdiction;

(f) submit reports to the Central Government regarding the working of safeguards on an annual basis or at such intervals as it think fit including measures for protection, welfare and social development of farmers; and

(g) undertake all other functions for the protection, welfare and development of farmers, as specified by the President.

Central
Government
to lay report.

5. (1) The Central Government shall cause to be laid before each House of Parliament all the reports submitted to it under clause (f) of sub-section (2) of section 4 along with a memorandum explaining the reasons for not accepting any of the recommendations made thereto.

(2) Where the report, or any of its part is related to any of the issue connected with the State Government, a copy of such report shall be forwarded to the Governor of that state, who shall in turn, along with an explanatory memorandum concerned with the action taken or proposed to be taken on the recommendations related to the State, if any, and reasons for

not accepting any of the recommendations, cause such report to be laid before the State legislature.

6. The Commission shall, while investigating any matter referred to in clause (c) of sub-section (2) of section, 4, have all the powers of a civil court trying a suit and, in particular in respect of the following matters, namely:—

Commission to have powers of Civil Court.

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing summons for the examination of witnesses and documents; and

(f) any other matter as may be prescribed.

7. The appropriate Government shall consult the Commission on all policies affecting interests of the farmers.

Appropriate Government to consult the Commission.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the Commission for carrying out the purposes of this Act.

Central Government to provide adequate funds to the Commission.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

10. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

More than half of country's population is engaged in agriculture and its allied activities, but the financial condition of farmers is still in a pitiable state. There are many schemes and special provisions for the welfare of farmers in the country, despite that no significant change can be observed in their social-economic conditions, Neither their financial condition has improved as expected nor their complaints are resolved. In such a scenario, in order to end their exploitation and to ensure their holistic development, need for a better and empowered institutional mechanism has long been felt. Also, the Government fixes the minimum support prices of agricultural produce but generally such prices are not realistic and remain far below the expectations of the farmers. Therefore, there is an urgent need that the minimum support prices of each agricultural produce be determined by the Government taking into consideration the economic and other situations of the farmers. There is an urgent requirement for establishment of a National Commission for Welfare of Farmers on the lines of the Scheduled Castes and the Scheduled Tribes Commissions.

Hence this Bill.

KIRODI LAL MEENA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of National Commission for Welfare of Farmers. It also provides for salary and allowances of Chairperson, Deputy Chairperson, member, officers, staff and experts appointed to the Commission. Clause 8 provides for the Central Government to provide adequate funds for the functioning of the Commission. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an recurring expenditure of Rupees Twenty crore will be involved.

A non- recurring expenditure of about Rupees five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

DESH DEEPAK VERMA,
Secretary-General